agency contract must be made attractive and remunerative. It must offer benefits of semi-permanent income to a person so that he will stick to the business as well as the Insurer. Hence the suggestion to provide for Renewal commission.

Clause 8.—It is not sound policy to provide for continuance of commission even in case of a person who joins another Insurer. This will exert a dissipative force amongst the workers of an Insurer. A smaller number of years is prescribed in Clause (b) of the Proviso to section 44 (1) as a condition of continuous service period in view of the smaller percentage provided in that case.

Clause 9.—The special agent should be judged on his organized work only. His personal work need not be taken into account when judging his eligibility to commission. He must employ and keep employed a sizable number of agents. Two is too small a number. The existing condition as to receipt of full year's premium is too harsh and repels intending workers. Such a condition is not imposed elsewhere in the Act where minimum qualifying business is laid down, *e.g.*, in Part B of this Schedule which applies to Chief Agents.

P. S. DESHMUKH.

BILL NO. 34 OF 1951

A Bill to provide for the constitution and incorporation of Bar Councils for High Courts and an All-India Bar Council for the Supreme Court.

BE it enacted by Parliament as follows :—

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the All-India Bar Councils Act, 19 .

(2) It extends to the whole of India and shall apply to the High Courts of Judicature at Fort William in Bengal, and at Madras, Bombay, Nagpur, Patna, Orissa, Punjab, and to such other High Courts within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, as the State Government may and by notification in the Official Gazette declare to be High Court to which this Act applies.

(3) This section and sections 2, 26, 27 and 28 shall come into force at once, and the State Government may, by notification in the Official Gazette, direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in respect of any High Court to which this Act applies on such date as it may by the notification appoint.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Advocate" means an advocate entered in the roll of advocates of the Supreme Court or of a High Court under the provisions of this Act.

(b) "Advocate-General" unless otherwise stated expressly or by implication, when there is no Advocate-General, the Government

Advocate and, where there is no Advocate-General or Government Advocate, such officer as the State Government may declare to be the Advocate-General for the purposes of this Act;

(c) "Court" includes all courts civil, criminal and revenue Courts established within the Union of India or by a State Government;

(d) "Tout" means a person—

(i) who procures in consideration of any remuneration moving from any practitioner, the employment of the legal practitioner in any legal business; or

(ii) who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or

(iii) who for the purpose of such procurement frequents the precincts of civil or criminal Courts, or of revenue offices, landing stages, lodging places or other places of public resort.

CONSTITUTION OF BAR COUNCILS

3. *Constitution and Incorporation of Bar Councils.*—(1) For the Supreme Court a Bar Council shall be constituted in the manner hereinafter provided and shall be called the All-India Bar Council.

(2) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(3) The All-India Bar Council and the every Bar Council of an High Court so constituted, shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and to contract, and shall by the name "All-India Bar Council" or by name of the Bar Council of the High Court for which it has been constituted, as the case may be, sue and be sued.

4. *Composition of High Court Bar Councils.*—(1) The High Court Bar Council shall consist of the following members, namely:—

(a) the Advocate-General;

(b) ten members to be elected from the advocates practising in the districts in the following manner—

ten electoral units each comprising of a number of districts shall be constituted as single-member constituencies by the Bar Council, if there is one, otherwise by the High Court concerned, on a population basis. One member from each of the said constituencies shall be elected to the Bar Council;

(c) five members to be elected by the advocates practising in the High Court:

Provided that in case the Bench of the High Court usually sits at more than one place, the Bar Council or the High Court, in case there is no Bar Council, shall by rules made in that behalf allocate the number of members to be elected from each of such places;

(d) three members to be nominated from amongst the advocates by the High Court; and

(e) four members to be co-opted by the members mentioned in clauses (a), (b), (c) and (d) of this sub-section from amongst the judges of the High Court who had been advocates :

Provided that no advocate shall be eligible for membership who has not for less than ten years been entitled as of right to practise in the High Court.

(2) There shall be a Chairman and Vice-Chairman of each Bar Council. In States where there is an Advocate-General, he shall be the *ex officio* Chairman, while the Vice-Chairman shall be elected by the Bar Council in such a manner as may be prescribed :

Provided that in States where there is no Advocate-General, the Chairman of the Bar Council shall be elected by the Council in such a manner as may be prescribed.

5. *Term of Membership of the High Court Bar Councils.*—(1) The term of office of Advocate-General as a member of the Bar Council shall be till he holds that post.

(2) The term of office of members of the Bar Council mentioned in clauses (b), (c) and (d) of sub-section (1) of section 4 shall be nine years :

Provided that upon the first constitution of the Bar Council under this Act, the Chairman shall make such provision that one-third of the members holding seats shall retire every third year.

(3) The term of office of members co-opted under clause (e) of sub-section (1) of section 4 shall be five years or for the period they hold the office of a judge of the High Court, whichever is less.

(4) The seats falling vacant by death or retirement shall be filled in by election, nomination or co-option as the case may be from the members of the same class for the unexpired term :

Provided that the members who retire shall be eligible for re-election :

Provided further that the existence of a vacancy or vacancies at any time shall not invalidate the constitution of the Bar Council.

6. *Composition of All-India Bar Council.*—(1) The All-India Bar Council shall consist of the following members, namely :—

(a) the Attorney-General ;

(b) five members to be elected by the advocates practising in the Supreme Court ;

(c) two members from each of the Bar Councils of the High Courts elected by the members of those Bar Councils :

Provided that it will not be necessary that the members so elected are the members of the Bar Council also ; and

(d) two members to be co-opted by the members mentioned in clauses (a), (b), and (c) from amongst the Judges of the Supreme Court, who has been advocates.

(2) There shall be a Chairman and a Vice-Chairman of All-India Bar Council, and shall be elected by the Council in such a manner as shall be prescribed.

7. *Term of Membership of All-India Bar Council.*—(1) The term of office of Attorney-General as a member shall be till he holds that post.

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(2) The term of office of the members elected under clauses (b) and (c) of sub-section (1) of section 6 shall be nine years :

Provided that upon the first constitution of the All-India Bar Council under this Act, the Chairman shall make such provision that about one-third of the members holding seats shall retire every three years.

(3) The term of office of members co-opted under clause (d) of sub-section (1) of section 6 shall be five years or for the period they hold office of the Judge of the Supreme Court whichever is less.

(4) The seats falling vacant by death or retirement shall be filled by election or co-option from the same class for the unexpired term :

Provided that the members who retire shall be eligible for re-election :

Provided further that the existence of a vacancy or vacancies at any time shall not invalidate the constitution of the Bar Council.

8. *Power to make rules regarding Constitution and procedure of Bar Councils.*—(1) Rules consistent with this Act, may be made to provide for the following matters, namely :—

(a) the manner in which election of members of Bar Council shall be held; the manner in which the result of the elections shall be published; and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided;

(b) the filling of casual vacancies in the Council;

(c) the convening of the meetings of the Council; and the quorum necessary for the transaction of the business thereat;

(d) the manner of election and the respective terms of office of the Chairman, in cases where the Chairman is to be elected and of the Vice-Chairman; and

(e) any other matter incidental or ancillary to the foregoing matters.

(2) In places where no Bar Council exists at the time of the coming in force of this Act, the first rules under this Act shall be made by the High Court, but the Bar Council may thereafter, add to, amend or rescind any rules so made.

(3) The first rules for the All-India Bar Council under this section shall be made by the Supreme Court but the All-India Bar Council may thereafter add to, amend or rescind any rules so made.

(4) No election of a member or members of the Council shall be called in question on the ground that the notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the Official Gazette of the Central Government in the case of the All-India Bar Council or of the State or each State in which the High Court exercises Juirsdiction, as the case may be, in case of Bar Council of the High Courts.

9. *Power of the Bar Councils to make Bye-laws.*—The Bar Council may make bye-laws consistent with this Act and any rule made thereunder to provide for any of the following matters, namely :—

(a) the appointment of such ministerial officers and servants as the Bar Council may deem necessary and the pay and allowances and other conditions of service of such officers and servants;

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(b) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers and duties of the Council which may be delegated to such Committees;

(c) the appointment and constitution of committees for the purpose of supervising legal education; and

(d) the appointment and constitution of the District Bar Council Committees and their powers and duties:

Provided that the bye-laws respecting clauses (a), (b) and (c) relating to All-India Bar Council shall be made by that Council.

ADMISSION AND ENROLMENT OF ADVOCATES

10. *Admission and Enrolment of Advocates.*—(1) No person shall be entitled as of right to practise in any High Court unless his name is entered in the roll of Advocates of the High Court maintained under this Act.

(2) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(a) All persons who were, as advocates, vakils or pleaders, entitled as of right to practise in High Courts immediately before the date on which this section comes into force in respect thereof:

Provided that such person shall have paid in respect of the enrolment the stamp duty, if any, chargeable under the Stamp Act, and fees payable to the Bar Council, which shall be ten rupees;

(b) all other persons who have been admitted to be advocates of the High Court under this Act:

Provided that they either paid a sum of one hundred rupees to the High Court and five hundred rupees to the Bar Council; or undertake to pay and pay a sum of twenty-five rupees per annum to the Bar Council:

Provided further that in case of persons paying annual fees, a certificate shall be issued annually entitling them to practise and they shall have a right to pay the prescribed amount in a lumpsum to the High Court and the Bar Council, any time, during the course of their practice and the liability for payment of annual fees shall cease thereafter:

Provided further that every advocate shall have to pay a fee of five rupees per annum to the Bar Council.

(3) Entries in the roll of advocates shall be made in the order of seniority, and such seniority shall be determined as follows, namely:—

(a) all such persons as are referred to in clause (a) of sub-section (2) shall be entered first in the order in which they were respectively entitled to seniority immediately before the date on which this section comes into force in respect of the High Court; and

(b) the seniority of any other person admitted to be an Advocate of the High Court under this Act after that date shall be determined by the date of admission:

Provided that, for the purpose of clause (b), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled:

Provided further that the seniority of any person admitted to be an Advocate of the High Court after the commencement of this Act, shall be determined by the date of his admission.

(4) The respective rights of pre-audience of advocates of the High Court shall be determined by seniority:

Provided that the Advocate-General shall have pre-audience over all other advocates and the Attorney-General shall have pre-audience over advocates including the Advocate-General:

Provided further that the advocates who have paid enrolment fees in a lumpsum shall have precedence over advocates who pay annual fees.

(5) The High Court shall issue a certificate of enrolment to every person enrolled under this section mentioning therein the terms of enrolment.

(6) The High Court shall send to the Bar Council a copy of the roll as prepared under this section and shall thereafter communicate to the Bar Council all alterations in and additions to the roll as soon as the same have been made.

(7) The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it.

(8) An Advocate enrolled on payment of annual fees shall not be entitled to practise unless he has paid the annual fee in advance, and has obtained a certificate for the current year. In case such an Advocate continues to practise without a certificate, he shall be liable to pay a fine which may extend to three hundred rupees.

(9) The annual fee of five rupees shall be payable to the Bar Council in advance during the course of enrolment and practice, and in case an advocate fails to pay it consecutively for a period of two years, he shall be liable to pay a fine of twenty rupees in addition to the arrears aforesaid.

11. *Enrolment of Advocates in Supreme Court.*—(1) No person shall be entitled as of right to practise in the Supreme Court unless his name is entered in the roll of advocates of Supreme Court maintained under this Act.

(2) The Supreme Court shall prepare and maintain a roll of advocates which shall be in two parts, one containing the names of senior advocates, and the other containing the names of other advocates.

(3) In the first part shall be entered as the name of—

(*a*) all persons who are entitled to practise as senior advocates on the date on which this section comes into force in respect thereof:

Provided that such persons have paid a fee of fifty rupees to the All-India Bar Council;

(*b*) all persons who have been enrolled for not less than ten years as advocates in the High Court of a State:

Provided that they have paid a fee of two hundred rupees to the Court and a fee of four hundred rupees to the All India Bar Council.

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(4) In the second part shall be entered the names of--

(a) all persons who are entitled to practise as an advocate on the date on which this section comes into force in respect thereof :

Provided that such persons shall have paid a fee of thirty rupees to the All India Bar Council ;

(*b*) all persons who have been enrolled for not less than five years as an advocate to the High Court of a State :

Provided that such persons shall have paid a fee of one hundred rupees to the Supreme Court and a fee of two hundred rupees to the All India Bar Council.

(5) All Advocates enrolled in the Supreme Court shall have to pay a fee of ten rupees per annum to the All India Bar Council.

(6) A person who in the case of an appeal before the Supreme Court has appeared as a Council. Advocate or Vakil in that case in the court from which the appeal is brought shall be entitled to appear and plead in the appeal, notwithstanding that he has not been enrolled as an advocate of the court provided that an advocate of the Supreme Court is briefed with him.

(7) The Chief Justice of India may, if for any reason he thinks it desirable so to do, permit any other person who in his opinion is sufficiently qualified to appear as an advocate in a particular case.

(8) A senior advocate shall not appear or plead without a junior.

(9) No person shall appear as an advocate in any case, unless he is instructed by an agent.

(10) A senior advocate shall not accept instructions to draw pleadings, affidavits, advice on evidence or to do any drafting work of an analogous kind, but this prohibition shall not extend to settling any such matters as aforesaid in consultaton with a junior.

(11) An enrolled advocate may, if otherwise qualified, apply to be enrolled in the list of senior advocates and any fees payable by him on enrolment shall be reduced by the amount of the fee paid by him on his original enrolment.

(12) A junior appearing with a senior advocate or with any other advocate senior to himself shall be entitled to, and shall be paid, a fee not less than one-third of the fee marked on the brief of the senior, but this rule shall not apply in the case of a second junior.

Explanation.—For purposes of clause (*b*) of sub-section (3) and clause (*b*) of sub-section (4), the period during which a person was entitled as of right to practise as a vakil or pleader in the High Court of a State immediately before his enrolment as an advocate in that High Court may be taken into account for the purpose of calculating the above-mentioned periods of ten or five years as the case may be.

(13) The annual fees of ten rupees shall be payable to the All-India Bar Council in advance during the course of enrolment and practice, and in case an Advocate fails to pay it consecutively for a period of two years, he shall be liable to pay a fine of thirty rupees in addition to the arrears aforesaid.

12. *Precedence in Supreme Court.*—(1) The Attorney-General shall have precedence over all other advocates in that Court.

(2) The Advocates-General of West Bengal, Madras, Bombay, Uttar Pradesh, Punjab, Madhya Bharat, Berar, Assam, Orissa and Rajasthan shall in that order have precedence immediately after the Attorney-General.

(3) An Advocate-General shall by virtue of his office have the status and precedence of a senior advocate in the Supreme Court notwithstanding that his name is not in the list of senior advocates.

(4) A senior advocate shall have precedence over other advocates.

(5) Subject to the preceding provisions, an advocate appearing before the Supreme Court shall have precedence among senior or other advocates, as the case may be, according to the date of his enrolment as a senior or other advocate, as the case may be, in the Supreme Court :

Provided that an advocate enrolled before the thirty-first day of December, 1938, shall have precedence among the senior or other advocates as the case may be, according to the date of enrolment in his own High Court ; any question which arises with respect to the precedence of any advocate shall be determined by the Supreme Court.

13. *Qualifications and admission of advocates.*—(1) The Bar Council may make rules to regulate the admission of persons to be advocates of the High Court :

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person.

(2) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

(*a*) the qualifications to be possessed by persons applying for admission as advocates ;

(*b*) the form and manner in which applications shall be made to the High Court for admission ;

(c) the giving of notice by the High Court to the Bar Council of all such applications ;

(*d*) the hearing of the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ; and

(*e*) the charging of fees payable to the Bar Council in respect of the enrolment.

(3) Rules for the purpose mentioned in sub-sections (1) and (2) for admission to practise in the Supreme Court shall be made by the All India Bar Council.

(4) Rules made under this section shall provide that no woman shall be disqualified for admission to be advocate by reason only of her sex.

Misconduct.

14. *Professional Misconduct.*—An advocate shall be guilty of professional misconduct—

(*a*) if he takes instruction in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorised by the party to give such instructions ; or

(b) if he is guilty of fraudulent or grossly improper conduct in the discharge of professional duty; or

(c) if he tenders, gives, or consents to the retention out of any fees paid or payable to him for his services of any gratification for procuring or having procured the employment in any legal business of himself or any other advocate; or

(*d*) if he directly or indirectly, procures or attempts to procure the employment of himself as such advocate through, or by the intervention of, any person to whom any renumeration for obtaining such employment has been given by him, or agreed to or promised to be so given; or

(*e*) who accepts any employment in any legal business through a person who has been proclaimed as a tout; or

(f) if he is guilty of any other act grossly derogatory to the profession.

15. *Punishment of Advocate for Misconduct.*—(1) The Bar Council may, in the manner hereinafter provided reprimand, suspend or remove from practice any advocate whom it finds guilty of professional or any other misconduct which in its opinion renders him unfit to be an advocate.

(2) Upon receipt of a complaint made to it by the High Court or by any Court or by any other persons that such advocate has been guilty of misconduct, the Bar Council shall, unless it considers unnecessary to do so, refer the case for enquiry, either to the Court of the District Judge (hereinafter referred to as District Court) or to a district committee of the Bar Council or to a sub-committee of its own members, constituted for the purpose, to make a preliminary enquiry and make a report about it to the Bar Council.

(3) The finding of the District Court or a district committee of the Bar Council or of the sub-committee of the Bar Council as the case may be, shall be sent to the Bar Council.

(4) If on the receipt of the report under sub-section (3) or even if without such reference and report the Bar Council is of opinion that the case should be tried, it shall be enquired into by a committee of the Bar Council (hereinafter referred to as the Tribunal).

(5) The Tribunal shall consist of not less than three and not more than five members of the Bar Council, appointed for the purpose of the inquiry by the Chairman of the Bar Council and one of the members so appointed shall be appointed to be the President of the Tribunal.

(6) After the appointment of the Tribunal, the complaint and the report of the inquiry, if any, shall be sent to the Tribunal. The Tribunal on receipt of such inquiry or report shall fix a day for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned, to the Registrar of the High Court and to the complainant, if any, and shall afford the advocate concerned and the complainant, of any, an opportunity of being heard and of producing such material before it as they desire.

Provided that the Tribunal shall not be bound by any rules of evidence.

(7) In case of a private complaint the Tribunal may if it considers, necessary, call upon the complainant to furnish such security for costs as it deems it.

(8) On the termination of the inquiry the Tribunal shall pass orders in the case. In passing its orders the Tribunal may pass such orders as regards the payment of costs of the inquiry and of the hearing before it as it thinks fit.

16. *Appeal.*—(1) From the orders of the Tribunal an appeal shall lie to the All India Bar Council.

(2) The period of limitation for the appeal shall be thirty days.

(3) On receipt of an appeal the All-India Bar Council shall constitute a sub-committee of its own members consisting of not less than three and not more than five members, and shall nominate one of the members as the President (hereinafter referred to as Appellate Tribunal).

(4) The Appellate Tribunal after giving notice to the Secretary of the Bar Council and the advocate concerned and the complainant, if any, shall fix a date hearing of the appeal.

(5) At the time of the hearing of the appeal, the Secretary of the Bar Council concerned or any other person appointed by the Bar Council for this purpose and the complainant, if any, and the advocate concerned, shall have the right of appearing before the committee.

(6) Appellate Tribunal after hearing the appeal will pass order in the case and the opinion of the majority of members shall prevail.

17. *Execution of the order.*—(1) The order of the Tribunal, in case no appeal is filed, or the order passed by the Tribunal is confirmed by the Appellate Tribunal, or the order of the Appellate Tribunal in case it varies with the order of the Tribunal shall be final.

(2) A copy of the orders of a Tribunal or of the Appellate Tribunal as the case may be, shall thereafter be submitted to the High Court, when any advocate reprimanded or suspended by such orders a record of the punishment shall be entered against his name in the roll of advocates of the High Court and when an advocate is removed from practice his name shall forthwith be struck off the roll and the certificate of the advocate so suspended or removed shall be recalled.

(3) The Bar Council shall make rules to prescribe the procedure to be followed by the District Bar Council Committees, sub-committee of the Bar Council and the Tribunal in the conduct of the inquiries referred under this section and the All India Bar Council for the procedure to be adopted by the Appellate Tribunal appointed for hearing the appeal.

18. *Powers of the All-India Bar Council in case of misconduct.*—All-India Bar Council shall have the same powers and adopt the same procedure in respect of complaints of misconduct in respect of advocates practising before the Supreme Court as are exercisable by the Bar Councils in respect of advocates practising in the High Courts under section 13 of the Act, but the State Bar Council shall not be debarred from taking proceedings for misconduct by an advocate enrolled in Supreme Court committed within its jurisdiction.

19. *Finality of orders of the Tribunal of All-India Bar Council.*—(1) The orders of a Tribunal of the All India Bar Council passed under section 18 of this Act shall be final.

(2) A copy of the orders of the Tribunal of the All-India Bar Council shall be submitted to the Supreme Court. When any advocate is reprimanded or suspended by the Tribunal of the All India Bar Council a record of the punishment shall be entered against his name in the rolls of the advocates of the

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Supreme Court, and when an advocate is removed from practice his name shall forthwith be struck off the rolls, and the certificate of the advocate so suspended, shall be recalled.

(3) The All India Bar Council shall make rules to prescribe the procedure to be followed by the Appellate Tribunal constituted by it, and the Tribunal of the All India Bar Council constituted by it to inquire into and try the cases of professional misconduct of advocates of the Supreme Court.

20. *Powers of the Tribunal and Courts of inquiry.*—(1) For the purposes of any such inquiry the Appellate Tribunal, the Tribunal of All India Bar Council, a Tribunal, a sub-committee, or District Committee of the Bar Council or a District Court shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, in respect of the following matters namely :—

(*a*) enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents, and

(*c*) issuing Commission for the examination of witnesses :

Provided that the Appellate Tribunal, the Tribunal of the All-India Bar Council, a Tribunal, Sub-Committee or District Committee of the Bar Council shall not have power to require the attendance of the Presiding officer of any Court save with the permission of the High Court, or in the case of an officer of Criminal or Revenue Court, or the State Government.

(2) Every such inquiry shall be deemed to be a Judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Appellate Tribunal, the Tribunal of the All-India Bar Council, a Tribunal, a sub-Committee or a District Committee of the Bar Council shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898.

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(*a*) the local limits of the Appellate Tribunal, or of the Tribunal of the All India Bar Council shall be those of the jurisdiction of the Supreme Court ;

(*b*) the local limits of Tribunal or Sub-committee of the Bar Council shall be those of the jurisdiction of the High Court for which the Bar Council is constituted and that of the District Committee of the Bar Council shall be the District for which it is appointed ; and

(*c*) the Appellate Tribunal, the Tribunal of the All India Bar Council or a Tribunal, a Sub-Committee or District Committee of the Bar Council, making an inquiry may send to any Civil Court having jurisdiction in the place where the Appellate Tribunal, the Tribunal of the All India Bar Council, or a Tribunal, a Sub-Committee or District Committee of the Bar Council making an inquiry is sitting any summons or any other process for the attendance of a witness or for the production of a document required by any of them or any commission which any of them desires to issue and the Civil Court shall serve such process as if it were a process for attendance or production before itself.

(4) Proceedings before the Appellate Tribunal, the Tribunal of the All-India Bar Council or a Tribunal, a Sub-Committee or District Committee of Bar Council making an inquiry or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872, the provisions of the section shall apply accordingly.

21. *Right of Advocates to practise.*—(1) An Advocate of the Supreme Court shall be entitled as of right to practise in any High Court whether or not he is enrolled as an advocate of that High Court, and in all other Courts and before Tribunals or persons legally authorised to take evidence.

(2) Any other advocate shall be entitled as of right to practise—

(*a*) in the High Court of which he is an advocate;

(*b*) save as otherwise provided by sub-section (3) or by or under any other law for the time being in force in any Court in India and before any other Tribunal or person legally authorised to take evidence and,

(*c*) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise.

(3) Where rules have been made by any High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, or in the case of any High Court for which a Bar Council has been constituted under this Act by such Bar Council under section 20, regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Courts such advocates shall not be entitled to practise therein otherwise than subject to those conditions.

22. *Power to frame and publish list of touts.*—(1) The Bar Council may of its own motion or on a resolution passd by a Bar Association inquire into the conduct of any person after giving him an opportunity of showing cause as to why his name should not be included in the list of persons who may be proved by evidence of general repute habitually to act as touts.

Explanation.—The passing of a resolution declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an Association of persons entitled to practise as legal practitioners in any Court, shall be evidence of general repute of such persons for the purposes of this section.

(2) Every person whose name is included in list shall be deemed to be proclaimed as a tout, within the meaning of section 36 of Legal Practitioners' Act.

(3) The Bar Council may maintain a list of touts framed by the Court under section 36 of the Legal Practitioners' Act and may alter, add to or amend such list. The Bar Council shall communicate to Courts the names of persons who are declared as touts under sub-section (1).

(4) Any person who acts as a tout whilst his name is included in the list shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or both.

23. *General power of Bar Councils to make rules.*—A Bar Council may make rules consistent with this Act to provide for and regulate any of the following matters, namely:—

(a) the rights and duties of the advocates of the High Court and their discipline and professional conduct;

(b) the enrolment of advocates and removal of their names from the roll of advocates permanently or for a limited period;

(c) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court;

(d) the making of provisions of giving facilities for legal education and training and the holding and conduct of examination by the Bar Council;

(e) the establishment and maintenance of Law Schools;

(f) prescribing of the fees payable to the Bar Council in respect of the enjoyment of educational facilities provided or of the right to appear at examinations, held by the Bar Council;

(g) the management and investment of funds of the Bar Council;

(h) travelling allowances to be given to the members of the Bar Council and to the members of the All-India Bar Council returned by that Bar Council;

(i) inquiries into the cases of persons alleged to be touts, and declaration of touts;

(j) any other matter incidental or ancillary to any of the foregoing matters.

24. *General power of All India Bar Council to make rules.*—The All India Bar Council may make rules consistent with this Act to provide for and regulate any of the following matters, namely:—

(a) the rights and duties of the advocates of the Supreme Court and their discipline and professional conduct;

(b) the enrolment of advocates practising in the Supreme Court and the removal of their names from the roll of advocates, permanently or for a limited period;

(c) co-ordinating the activities of the various Bar Councils in giving facilities for legal education and the holding and conducting of examinations by those bodies;

(d) prescribing of fees payable to the All-India Bar Council in respect of enrolment;

(e) the investment and management of the fund of All India Bar Council;

(f) any other matter incidental or ancillary to any of the foregoing matters.

25. *Power to fix fees payable as costs.*—(1) The Supreme Court shall make rules for framing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate and agent upon all proceedings in the Supreme Court.

(2) The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or any Court subordinate thereto.

26. *Indemnity against legal proceedings.*—No suit or other legal proceedings shall lie against the All-India Bar Council or a Bar Council, or any Sub-Committee or District Committee of Bar Council Tribunal, or Appellate Tribunal or member of All India Bar Council or a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

27. *Publication of rules.*—(1) All rules made under this Act by the All India Bar Council shall be published in the official *Gazette of India.*

(2) All rules made under this Act by a Bar Council shall be published in the official Gazette of the State, or of each State, as the case may be, in which the High Court to which the Bar Council is attached, exercises jurisdiction.

28. *Repeal, amendment of enactments etc.*—(1) All Bar Councils constituted under the Indian Bar Councils Act, Act No. XXXVIII of 1926, or under any of the State Amendments to that Act, shall be deemed to have been constituted under this Act when this comes into force.

(2) When sections 10 to 25 come into force in respect of any High Court any enactment mentioned in the first column of the schedule to this Act which is in force in any State in which the High Court exercises jurisdiction shall, for the purposes of its application to that State be repealed, amended, to the extent and in the manner specified in the second column of this schedule.

(3) When sections 10 to 25 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in such Letters Patent, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(4) When sections 10 to 25 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders Act, 1920, except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an Advocate of the High Court under this Act and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court.

(5) When this Act has come into force in respect of any High Court any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall unless such a construction is repugnant to the context or to any provision made by or under this Act, be constructed as applying to advocates of the High Court enrolled under this Act.

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THE SCHEDULE.

(*See* section 28).

REPEAL AND AMENDMENT OF ENACTMENTS.

	Enactment repealed or amended	Extent of Repeal or Amendment
1.	The India Bar Council Act, Act XXXVIII of 1926.	Whole repealed.
2.	The U. P. Act, XXIV of 1950	Whole repealed.
3.	The Legal Practitioners' Act of 1879.	(1) In section 4, section 6, clauses (a) and (b), section 38, section 41 and sub-section (1) for the words and figures, 'the India Bar Council Act, 1926' substitute the words 'the All India Bar Councils Act of 1951'.
4.	The Indian Stamp Act, 1899	In item 30 of the 1st Schedule (a) for the words 'under the India Bar Council Act, 1926' substitute the words, 'under the All-India Bar Councils Act, 1951 when the enrolment fee is paid in a lump sum'; (b) for the words, 'Five hundred rupees' substitute the words, 'One hundred rupees'; (c) to the entry under 'Exemption' the following be added at the end 'or the entry of an Advocate who undertakes to pay annual fee to the Bar Council'.
5.	The Madras Stamp (Amendment) Act 1922.	(a) In item 25 of schedule I-A for the words and figures, 'under the Indian Bar Council Act, 1926', substitute the words and figures:- 'under the Indian Bar Councils Act, 1951 when the enrolment fee is paid in a lump sum'; (b) for the words 'six hundred rupees' substitute the words, 'one hundred rupees'; (c) for the words, 'three hundred and twelve rupees, eight annas', substitute the words, 'sixty two rupees and eight annas';

Enactment repealed or amended	Extent of Repeal or Amendment
	(d) to the entry under 'Exemption' the following be added at the end, namely :—'or the entry of an Advocate who undertakes to pay an annual fee to the Bar Council'.
6. The Bengal Stamp Amendment Act, 1935.	Similar Amendments in Art, 30, substitute 'Rs. 750/-' by 'Rs. 100/-'
7. The Punjab Amendment Act, 1922	In Art. 30 of Schedule 1A, after the words, 'High Court' where they occur, the words and figures 'under the Indian Bar Council Act, 1951 when the enrolment fee is paid in a lumpsum' shall be inserted. Similar amendment substituting Rs. 750/-' by 'Rs. 100/-'.
8. The Assam Stamp Amendment Act, 1922.	Similar Amendments.

STATEMENT OF OBJECTS AND REASONS.

It is undoubtedly truism that an independent Bar is as much a necessity for a civilized society as an independent judiciary. With the advent of independence of India a thorough overhaul of this profession has also become necessary. An independent and autonomous Bar alone can raise the standard or education, honesty, independence and morality of the profession.

The Indian Bar Councils Act (Act XXXVIII of 1926) was enacted with this view. But it suffered, amongst others, from the handicap that at that time the Highest Court of Justice was not located in India and for that reason a Central body co-ordinating the activities of the advocates in the various States could not be easily created. The establishment of the Supreme Court of India has given us an opportunity to remove that defect and now the conception of an All-India Bar can be given a practical shape. It is with this view that the present Bill is being introduced.

The working of the Indian Bar Councils Act for the last twenty years has brought to the fore some of its inherent defects. One of these defects is the system of election to the Bar Council. In that Act the whole of the State was kept as an electoral college for elections to the Bar Council. The result was that the electors could not vote on their own knowledge. They had to depend on the recommendation of others. Anyone who took to canvassing and arrijing on propaganda had got better chances of success than the one who, though otherwise much better fitted to be a member of the Bar Council, yet had neither the inclination nor the time for such methods of canvassing. So one of the important changes introduced in this Bill is the creation of smaller electoral colleges for election to the Bar Council which it is hoped would lead to the election of really competent persons from throughout the State to take part in the deliberations of that body.

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In addition to the Bar Council attached to the various High Courts an All India Bar Council is proposed in this Bill which is to be a central body and it is expected that it will do the work of co-ordinating the activities of the various Bar Councils of the State. The election to the All-India Bar Council has been kept indirect, *i.e.*, its members are to be elected mostly by the members of the Bar Councils. The matter of legal education, training and discipline is kept in the hands of the Bar Councils and in cases of inquries regarding professional misconduct of the advocates, the All India Bar Council has been kept as a Court of Appeal.

The various changes intended to be effected in the Bar Councils Act of 1926 could not be easily effected by an amending Bill, hence this Bill is introduced to replace the Indian Bar Councils Act.

MOHAMMAD AHMAD KAZMI.

NOTE ON CLAUSES.

Clauses 4 *and* 6.—As has been stated in the statement of objects and reasons to provide for smaller electoral colleges, the States have been divided into various electoral constituencies. Judges of the High Court and the Supreme Court who are raised to the Bench from amongst the advocates are expected to show keen interest in the organisation and efficiency of this profession, as such they have been given an effective representation in the Bar Council. It is possible that some persons who can take serious interest in the matters of the profession may not come in the Bar Council by election ; provision has, therefore been made for their nomination by the High Court or the Supreme Court as the case may be.

Clauses 5 *and* 7.—The present period of the members of the Bar Council is too short for any constructive work and working out a planned scheme for the improvement of the profession. To remove this defect a longer period has been provided, but to avoid any stagnation and diminution of interest amongst the advocates, so far as the matters of the Bar Council are concerned, the election of one-third of the members after a period of three years has been provided by this clause.

Clauses 10 *and* 11.—It has been the keen desire in the profession to remove the distinction between the various classes of legal practitioners. This was the aim of the Indian Bar Councils Act of 1926, but the conditions of enrolment have again effected a great division and created two distinct classes in the profession consisting of persons having the same or almost the same qualifications.

It has, therefore, been provided that the advocates may be enrolled by paying a lumpsum, or by paying an annual fee with the option of paying up the lumpsum at any time later on. This would bring a very large number of legal practitioners under the control of the Bar Council. The only class that would be left out would be *mukhtars*, but as most of the State Governments have stopped recruitment to this class, it is expected that the Bar Council would become the sole representative body of the Legal practitioners in India.

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From the point of view of finances also it will add great deal to the strength of the funds of the Bar Council. At present the sole source of income of the Bar Council is from the annual enrolment of the advocates--a very uncertain source of income. Annual payment of fees can be a more reliable source of income. Further, a fee of Rs. 5 per annum payable by the Advocates to the Bar Council and a fee of Rs. 10 payable to the All India Bar Council has been provided from this point of view. It is expected that with financial stability the Bar Council would be in a position to take up the work of legal education in its hands.

In this connection it may further be mentioned that the share of the Bar Council in the enrolment fee is very insignificant, while that given to the State is very large, now that the main work of discipline is being transferred to the Bar Council it is only proper that the share of the Bar Council in the enrolment fee should be increased. For this purpose necessary amendments have been made in article 30 of the Stamp Act.

Clause 14.—A definition of misconduct has been added by this section.

Clauses 15 *and* 16.—The trial of cases for misconduct has been brought under the exclusive control of the Bar Council and an appeal has been provided to the All India Bar Council.

Clause 21.—By the establishment of the Supreme Court we have got a further opportunity of unifying the Bar of India. It has, therefore, been provided that the advocates enrolled in the Supreme Court shall have a right of practising in any High Court in India. This provision is not likely to affect the financial position of any Bar Council in India, as for an enrolment of an advocate in the Supreme Court, the condition precedent is that he should be enrolled as an advocate in the High Court of a State.

Clause 22.—At present the Bar Council has got no power to declare a person as a tout. Experience has shown that the High Court with its multifarious duties cannot easily act in this direction. It is, therefore, proposed that the Bar Council should have concurrent jurisdiction in the matter of declaration of persons as touts.

Clause 23.—In this clause the powers of the Bar Council in making provision for legal education has been more specifically brought to the force.

Further as it is apprehended that the funds of the All-India Bar Council may not be sufficient to meet the travelling allowances of members coming from the States it has, therefore, been provided that their travelling allowances may be paid by the Bar Councils of the High Court—each High Court Bar Council paying the expenses of those members of the All-India Bar Council who have been returned by it to the All-India Bar Council.

Clause 24.—In the matter of legal education the function of the All-India Bar Council shall be that of co-ordinating the activities of the various Bar Councils, and with that object item (c) has been added to this clause.